

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RESIDENTIAL FUNDING
CORPORATION, et al.,

Appellants,

v.

HAL EDWIN BUETTNER, III, et al.,

Appellees.

No. 2:23-cv-02543-DJC

DEUTSCHE BANK NATIONAL TRUST
COMPANY, et al.,

Appellants,

v.

KEVIN RANDALL KRONE, et al.,

Appellees.

No. 2:23-cv-02544-DJC

ORDER CONSOLIDATING CASES

Appellants have filed motions to consolidate the above captioned cases. (ECF No. 13 in case No. 2:23-cv-02543-DJC and ECF No. 5 in case No. 2:23-cv-02544-DJC.) Both cases are appeals of separate bankruptcy decisions issued in the same consolidated bankruptcy action. Appellees have not opposed consolidation in either matter. The Court GRANTS the Motions to Consolidate as discussed below.

1 Appellants have also filed Motions to Stay pending the Motions to Consolidate
2 in each case. (ECF No. 5 and ECF No. 6, respectively.) These motions are DENIED as
3 Moot. The Court will instead amend the briefing schedules as described below.

4 Federal Rule of Civil Procedure 42 gives the Court the discretion to consolidate
5 actions before the Court. The district court is granted "broad discretion" in
6 determining whether to consolidate two actions. *Pierce v. Cty. of Orange*, 526 F.3d
7 1190, 1203 (9th Cir. 2008). Factors that a court can consider "in determining whether
8 to consolidate a case include judicial economy, whether consolidation would expedite
9 resolution of the cases, whether separate cases may yield inconsistent results, and the
10 potential prejudice to a party opposing consolidation." *J.B. v. Tuolumne Cty.*
11 *Superintendent of Schools*, No. 1:19-cv-00858-LJO-EPG, 2019 WL 13098505, at *2
12 (E.D. Cal., Oct. 25, 2019).

13 The factors weigh in favor of consolidation. While the Appellees in each case
14 are different, both actions involve the same conduct by two overlapping Appellants –
15 Ocwen Loan Servicing and PHH Mortgage Corporation – have similar facts, and raise
16 the same issues of law. Appellants have specifically appealed the same legal holdings
17 related to California Code of Civil Procedure section 1717 in both cases. Because the
18 legal issues are the same, the Court would reserve judicial resources and expedite
19 resolution of the matters by avoiding duplicative briefing and argument, and deciding
20 the issues in a single order. No party has indicated that it would be prejudiced by
21 consolidation of the cases. Moreover, these cases were consolidated in the
22 bankruptcy proceedings, further indicating that consolidation is appropriate.

23 Accordingly, IT IS HEREBY ORDERED that Appellants' Motions to Consolidate
24 (ECF Nos. 13 and 5) are GRANTED as follows:

- 25 1. Pursuant to Fed. R. Civ. P. 42, the actions denominated as In Re:
26 Buettner, et al., Case No. 2:23-cv-02543-DJC and Deutsche Bank National Trust Co.,
27 et al. v. Krone, et al., Case No. 2:23-cv-02544-DJC, are hereby consolidated;
- 28 2. Case No. 2:23-cv-02543-DJC is designated as the "master file;"

1 3. The Clerk of the Court is DIRECTED to add the Notice of Bankruptcy
2 Appeal (ECF No. 1), the Certificate of Record and Bankruptcy Briefing Schedule (ECF
3 No. 4), and Appellant's Brief (ECF No. 11) from Case No. 2:23-cv-02544-DJC to the
4 master file;

5 4. The Clerk of the Court is DIRECTED to administratively close Case No.
6 2:23-cv-02544-DJC; and

7 5. The parties are DIRECTED to file all future pleadings, motions and other
8 filings ONLY in Case No. 2:23-cv-02543-DJC.

9 In addition, IT IS HEREBY ORDERED that Appellants' Motions to Stay (ECF Nos.
10 5 and 6) are DENIED as moot. Appellees are ordered to file a joint opening brief
11 within 30 days of the date of this order. The briefing schedule will otherwise remain in
12 effect.

13
14 IT IS SO ORDERED.

15
16 Dated: January 19, 2024

/s/ Daniel J. Calabretta

THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE